UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re: Stepfanie La'Terree Smith **6435 Macedonia Rd.** **Woodford, VA 22580** **Debtor(s).**	)	**Case No.3:17-BK-30461-KLP** **Chapter 13**
Stepfanie La'Terree Smith **Plaintiff(s)**	)	
v.	)	**AP No. 3:17-AP-3043-KLP**
Fox Motors, Inc. **Defendant(s)**	)	

NOTICE OF MOTIONS

Jason M. Krumbein, Esq. has filed papers with this court to approve .

Your rights may be affected. You should read these papers carefully, and discuss them with your attorney in this Bankruptcy Case, if you have one. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, then on or before March 1, 2017, you or your attorney must:

File with the court and mail a copy to the Debtors' counsel, at the addresses shown below, a written request for a hearing. If you mail your request for hearing to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

Clerk of the Court U.S. Bankruptcy Court 701 E. Broad St., Suite 4000 Richmond, VA 23219	Jason M. Krumbein, Esq. Krumbein Consumer Legal Services, Inc. 1650 Willow Lawn Drive, Suite 201 Richmond, VA 23230

You must also attend a hearing on April 19, 2017 at 10:30am, before Judge Phillips, 701 E. Broad St. Rm 5100, Richmond, VA 23219.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion, and may enter an order granting that relief.

Date: March 27, 2017

/s/ Jason M. Krumbein, Esq.
1650 Willow Lawn Drive, Suite 201
Richmond, VA 23230
VSBN 43538
Counsel for Debtor in Bankruptcy

CERTIFICATE OF SERVICE

See certificate attached to motion.

/s/ Jason M. Krumbein, Esq.
Counsel for the Debtor(s) in Bankruptcy

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

IN RE: STEPFANIE LA'TEREE SMITH, Debtor,	Case No. 3:17-BK-30461-KLP Chapter 13
Stepfanie La'Teree Smith Plaintiff v. Fox Motors, Inc. Defendant	AP" 3:17-AP-3043-KLP

MOTION FOR ENTRY OF AN ORDER APPROVING COMPROMISE

Stepfanie La'Teree Smith, by counsel, seeks entry of an order substantially in the form attached hereto as **Exhibit A**, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure, approving a compromise reached with Fox Motors, Inc (the "Defendant"). The Plaintiff states the following in support of this motion:

PARTIES AND JURISDICTION

1. On January 30, 2017, the Debtor/plaintiff filed a voluntary bankruptcy petition under Chapter 13 of the Bankruptcy Code.

2. Defendant was not listed, but received actual notice of the Bankruptcy.

3. This is a core proceeding pursuant to 28 U.S.C. § 157.

4. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and personal jurisdiction over all parties pursuant to Rule 7004(f) of the Federal Rules of Bankruptcy Procedure.

BACKGROUND

5. On January 30, 2017, the Debtor filed for relief under Chapter 13 of the United States Bankruptcy Code in this Court, Case No. 17-30461-KLP (the "Chapter 13 Case"). Suzanne Wade was appointed as the Chapter 13 Trustee (the "Chapter 13 Trustee").

6. On or about February 4, 2017, defendant induced the plaintiff to return to the business, and took possession of the vehicle.

7. Defendant failed and refused to return the vehicle, causing the plaintiff to suffer actual damages.

8. Defendant, after consulting with counsel, returned the vehicle on or about March 17.

9. The parties, having now conferred, have agreed to settle their differences and the defendant has agreed to pay a total of $1,800.00 to the plaintiff and her counsel in settlement of this matter. The $1,800.00 is meant to compensate the plaintiff for all out of pocket expenses and counsel for the plaintiff has agreed to reduce his fee.

10. The plaintiff has entered into the Settlement to avoid an additional delay in administration of the estate, additional costs and expenses of litigation and any associated risks.

11. The plaintiff believes the Settlement is fair and equitable and in the best interest of the Debtor's bankruptcy estate and creditors.

REQUESTED RELIEF

12. This Court has the authority to approve the Settlement pursuant to Fed. R. Bankr. P. 9019(a).

13. Fed. R. Bankr. P. 9019(a) provides that, after notice and a hearing, the Court may approve a proposed compromise or settlement.

14. The decision whether to accept or reject a compromise or settlement is within the sound discretion of the Court. *In re Vaughn*, 779 F.2d 1003, 1010 (4th Cir. 1985); *In re Three Rivers Woods, Inc.,* No. 98-38685-T, 99-3020-T, 2001 WL 720620, *5 (Bankr. E.D. Va. March 20, 2001); *In re Frye*, 216 B.R. 166, 174 (Bankr. E.D. Va. 1997).

15. In reviewing a proposed compromise and settlement, the Court must determine whether the settlement is (i) "fair and equitable," *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson,* 390 U.S. 414, 424 (1968), and (ii) in the "best interests of the estate." *Frye*, 216 B.R. at 174; *see also Vaughn*, 779 F.2d at 1010; *In re McNallen*, 197 B.R. 215, 221 (Bankr. E.D. Va. 1995).

16. In determining whether a proposed compromise or settlement is "fair and equitable," two principles should guide the Court.

17. First, compromises and settlements are favored. *Frye*, 216 B.R. at 172; *see also TMT*, 390 U.S. at 424 (quoting *Case v. Los Angeles Lumber Prods., Co.*, 308 U.S. 106, 130 (1939) (stating that "[c]ompromises are a normal part of the process of reorganization")). Since *TMT* is cited as the starting point for guidance to the bankruptcy courts in addressing compromises and settlements in bankruptcy cases generally, the Trustee would suggest that *TMT* stands for the general proposition that compromises and settlements are a normal part of the bankruptcy process.

18. Second, a proposed compromise or settlement should be approved so long as "it is within the acceptable range of reasonableness." *Nellis v. Shugrue*, 165 B.R. 115, 123 (S.D.N.Y. 1994). Furthermore, the Court need not "be convinced that the settlement is the best possible compromise or that the parties have maximized their recovery." *Id.*; *see also In re Austin*, 186 B.R. 397, 400 (Bankr. E.D. Va. 1995) (citations omitted).

19. The criteria generally relevant in determining whether to approve a settlement include:

a. The probability of the plaintiff's success in any ensuing litigation;

b. Any collection difficulties;

c. The complexity, time and expense of the litigation; and

d. The interests of creditors with proper deference to their reasonable views.

Austin, 186 B.R. at 400 (citations omitted).

20. The probability of the plaintiff's success in the litigation and potential difficulties, if any, in collection. Based on the existing case law and the unique circumstances underlying the Inherited Property, it is uncertain how the Court would resolve the dispute. The defendant has not been sued previously for Bankruptcy stay violations, and is unsophisticated in the ways of the Bankruptcy court. The stay violation is therefore likely to result in an order for actual damages only and the court would then look at attorney fees. The claim for relief under the truth in lending act is questionable, and might result in a bad outcome for the plaintiff. The claim for violation of VA Code 8.9A-612 and the Virginia Consumer Protection Act are even more questionable. Further, the defendant is a small car dealer and does not have extensive resources to pay any large claim that might be entered. This factor favors approval of the compromise.

21. The complexity, time and expense of litigation. The Settlement was reached after analysis of pending issues, conducting significant research and due diligence, back and forth negotiations between the plaintiff and the defendant, and after taking into consideration the time, expense and risk of fully litigating these matters before the Court. The unique circumstances underlying the dispute and intersecting legal issues make the litigation more complex. Further

litigation would only delay. The expenses, inconveniences and delays attending the litigation can all be avoided. This factor favors approval of the compromise.

22. The interests of the creditors. The Settlement with the defendant is reasonable since it allows the plaintiff to obtain recovery of her actual out of pocket damages, without delay and avoids the potentially large administrative expenses of litigation. This factor favors approval of the compromise.

23. The plaintiff believes the Settlement is fair and equitable and in the best interests of the Debtor's estate and creditors. The plaintiff also believes that the Settlement is based upon sound business judgment.

24. Accordingly, the Plaintiff believes that the Settlement meets the standards for approval established by the courts.

WAIVER OF MEMORANDUM OF LAW

25. Pursuant to Local Bankruptcy to Local Bankruptcy Rule 9013-1(G)(1), and because there are no novel issues of law presented in the Motion and all applicable authority is set forth in the Motion, the Trustee requests that the requirement that all motions be accompanied by a separate memorandum of law be waived.

WHEREFORE, the Trustee requests the Court to approve the compromise and to award any further relief the Court deems proper.

Stepfanie La'Teree Smith

By /s/ Jason M. Krumbein
Counsel

Krumbein Consumer Legal Services, Inc.
Jason M. Krumbein, Esq, VSB#43538
1650 Willow Lawn Drive, Suite 201
Richmond, VA 23230
804.592.0792 voice
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CERTIFICATE OF SERVICE

Pursuant to the Local Rules of this Court, I hereby certify that on March 23, 2017, a true and correct copy of the foregoing was served via the Court’s ECF system on the following necessary parties:

Richard S. Clinger, Esq.
Counsel for Fox Motors, Inc., Defendant
422 E. Broad St. Suite 101
Richmond, VA 23219

/s/ Jason M. Krumbein
Counsel

EXHIBIT A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

IN RE: STEPFANIE LA'TEREE SMITH, Debtor,	Case No. 3:17-BK-30461-KLP Chapter 13
Stepfanie La'Teree Smith Plaintiff v. Fox Motors, Inc. Defendant	AP" 3:17-AP-3043-KLP

ORDER GRANTING MOTION FOR ENTRY OF AN ORDER
APPROVING COMPROMISE

THIS MATTER comes before the Court upon the *Plaintiffs's Motion for Entry of an Order Approving the Compromise* (the "Motion") filed by Stepfanie La'Teree Smith. (the "Plaintiff"), pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure, to approve the compromise reached with the Defendant regarding a certain motor vehicle. Based on the review of the record and related pleadings, the Court makes the following findings and conclusions:

1. This is a core proceeding pursuant to 28 U.S.C. § 157.

2. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and personal jurisdiction over all parties pursuant to Rule 7004(f) of the Federal Rules of Bankruptcy Procedure.

3. On January 30, 2017, the Debtor filed for relief under Chapter 13 of the United States Bankruptcy Code in this Court, Case No. 17-30461-KLP (the "Chapter 13 Case"). Suzanne Wade was appointed as the Chapter 13 Trustee (the "Chapter 13 Trustee").

4. On or about February 4, the defendant took possession of the plaintiff's vehicle and failed to return such vehicle to her.

5. Plaintiff suffered actual damages including rental vehicle costs.

6. Plaintiff filed suit in this court for the recovery of the vehicle.

7. Defendant has returned possession of the vehicle to the plaintiff.

8. To resolve the dispute regarding the vehicle, the defendant agrees to deliver to the plaintiff within sixty (60) days of March 23, 2017, One Thousand Eight Hundred Dollars and 00/100 ($1,800.00) (the "Settlement") in full and final settlement of any claims by the plaintiff to the vehicle. The Settlement is not an admission of bad faith or wrong doing by the defendant and has been entered into by the defendant solely to avoid additional costs and expenses of litigation.

9. The Plaintiff has carefully examined the facts and has concluded that the Settlement is reasonable in relation to the value of the defendant's claims, the potential defenses available to the defendant and the costs of litigation to effectuate recovery. The Court adopts and approves of the plaintiff's conclusions.

10. The creditors of the estate will benefit by the approval of the compromise in that they will be provided a certain recovery without delay, and avoid the additional administrative expenses of litigation.

11. Notice of this Motion has been properly served on all parties in interest pursuant to Federal Rule of Bankruptcy Procedure 2002.

UPON DUE CONSIDERATION, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is hereby granted and the Settlement referenced to therein is hereby approved.

2. Within sixty (60) days of March 23, 2017, the Defendant shall deliver One Thousand Eight Hundred Dollars and 00/100 ($1,800.00) (the "Settlement") to the counsel for the plaintiff in full and final settlement of any claims by the plaintiff related the vehicle.

3. The plaintiff is authorized to take all necessary actions, including, without limitation, executing all necessary documents, to consummate the Settlement.

4. No further service of this Order is required; all necessary parties will be served pursuant to the ECF rules of this Court.

ENTERED: _________ ____
UNITED STATES BANKRUPTCY COURT JUDGE

I ask for this

____
Stepfanie La'Teree Smith by
Jason M. Krumbein, Esq. VSB#43538
Krumbein Consumer Legal Services, Inc.
1650 Willow Lawn Drive, Suite 201
Richmond, VA 23230
804.592.0792 voice
804.234.1159 fax
JKrumbein@KrumbeinLaw.com email

Seen and Agreed:

____
Fox Motors, Inc. by
Richard S. Clinger, Esq.VSB#19632
422 E. Broad St. Suite 101
Richmond, VA 23219
804.788.1655 voice
804.726.1560 fax
rclinger2@verizon.net email

CERTIFICATE OF SERVICE

Pursuant to the Local Rules of this Court, I hereby certify under penalty of perjury that on March 23, 2017, a true and correct copy of the foregoing was served via the Court's ECF system on the following necessary parties:

Richard S. Clinger, Esq.
Counsel for Fox Motors, Inc., Defendant
422 E. Broad St. Suite 101
Richmond, VA 23219

/s/ Jason M. Krumbein
Counsel